HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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PATENT APPLICATION AF 2116

ATTORNEY DOCKET NO. 10006644-1

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NOV 15 2005

**IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor(s):   Jeffrey R. Oar; Gregory J. May

Confirmation No.: 1271

Application No.:10/081,005

Examiner: Anand B. Patel

Filing Date: Feb. 19, 2002

Group Art Unit: 2116

Title: POWER SAVING FEATURES FOR COMPUTING SYSTEMS

**Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450**

TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on October 4, 2005   .

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)
          for the total number of months checked below:

( ) one month	$120.00	
( ) two months	$450.00	
( ) three months	$1020.00	
( ) four months	$1590.00	

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is
          being made to provide for the possibility that applicant has inadvertently overlooked the need
          for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of ___**$500.00**___. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,
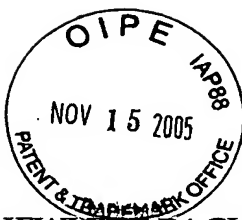
Jeffrey R. Oar; Gregory J. May

By

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PATENT APPLICATION
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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Jeffrey R. Oar; Gregory J. May

Confirmation No: 1271

Application No: 10/081,005   **Examiner:** Anand B. Patel

Filing Date: February 19, 2002   **Group Art Unit:** 2116

SUBJECT: POWER SAVING FEATURES FOR COMPUTING SYSTEMS

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPEAL BRIEF

Appellant herein sets forth his reasons and arguments for appealing the

Examiner's final rejection of claims in the above-identified case.

REAL PARTY IN INTEREST

This Patent Application has been assigned to Hewlett-Packard

Development Company, L.P., a Texas Limited Partnership having it principal

place of business in Houston, Texas.

RELATED APPEALS AND INTERFERENCES

Appellant is aware of no related appeals or interferences.

STATUS OF CLAIMS

Claims 23 through 31 are pending in the case.

Claims 23 through 31 are rejected.

The appealed claims are claims 23 through 31.

STATUS OF AMENDMENTS

After the final rejection, Appellant filed a Response dated August 22, 2005. The Response did not include any amendments to the case.

SUMMARY OF CLAIMED SUBJECT MATTER

Claim 23:

Claim 23 sets out a method by which a portable computer (22) in a sleep mode responds to a wireless communication from a personal digital assistant (17). See Figure 1 and the Specification at page 1, lines 9 through 17.

The portable computer (22) is awakened (51) from the sleep mode in response to the wireless communication from the personal digital assistant (17). See Figure 3 and the Specification at page 5, lines 16 through 22. The portable computer (22) recognizes (52) the wireless communication. See Figure 3 and the Specification at page 6, lines 1 through 3.

The portable computer (22) responds (53) to the wireless communication. See Figure 3 and the Specification at page 6, lines 4 through 5.

The response (53) includes generating a response, and transmitting the response to the personal digital assistant (17). See Figure 3 and the Specification at page 8, lines 6 through 21. The transmission is performed via another wireless communication transmission. See Figure 1. The portable computer (22) is returned (58) to the sleep mode. See Figure 3 and the Specification at page 8, lines 2 through 5.

Claim 26:

Claim 26 sets out a method by which a portable computer (22) in a sleep mode responds to a wireless communication from a personal digital assistant (17). See Figure 1 and the Specification at page 1, lines 9 through 17. The portable computer (22) is awakened (51) from the sleep mode in response to the wireless communication from the personal digital assistant (17). See Figure 3 and the Specification at page 5, lines 16 through 22. The portable computer (22) recognizes (52) the wireless communication by performing an action in response (53) to the wireless communication by the personal digital assistant (17) and returning (58) the portable computer (22) to the sleep mode. See Figure 3 and the Specification at page 6, lines 4 through 5 and at page 8, lines 2 through 5.

<u>Claim 29:</u>

Claim 29 sets out storage media that stores software which when executing on a portable computer (22) performs a method by which the portable computer (22) responds to a wireless communication from a personal digital assistant (17). See Figure 1 and the Specification at page 1, lines 9 through 17. The portable computer (22) is awakened (51) from the sleep mode in response to the wireless communication from the personal digital assistant (17). See Figure 3 and the Specification at page 5, lines 16 through 22. The portable computer (22) recognizes (52) the wireless communication. The portable computer (22) performs an action in response (53) to the wireless communication. The portable computer (22) returns (58) to the sleep mode. See Figure 3 and the Specification at page 6, lines 4 through 5 and at page 8, lines 2 through 5.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(1) Claims 23 to 31 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over USPN 6,785,724 (*Drainville*) in view of USPN 6,317,831 (*King*).

ARGUMENT

A. Overview of Errors in the Rejection of the Claims under 35 U.S.C. 103.

The U.S. Patent and Trademark Office has set forth a methodology for establishing a *prima facie* case of obviousness. Specifically three basic criteria must be met:

> First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

See MPEP 706.02 (j).

The courts have generally required that the novel features on the claimed invention be disclosed or suggested by the prior art in order to make a finding of obviousness. See, for example, *Amgen Inc. v. Chugai Pharmaceutical Co. Ltd.*, 927 F.2d 1200, 18 U.S.P.Q. 2d 1016, 1022 (Fed. Cir. 1991).

Piecemeal reconstruction of prior art patents in the light of an applicant's disclosure is not a basis for a holding of obviousness under 35 U.S.C. § 103. *In re Kamm and Young*, 452 F.2d 1052, 172 U.S.P.Q. 298, 301 (C.C.P.A. 1972)

It is impermissible to use the claims as a frame and the prior-art references as a mosaic to piece together a facsimile of the claimed invention. *Uniroyal Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 U.S.P.Q. 2d 1434 (Fed. Cir. 1988).

The person of ordinary skill in the art is not presumed to know information which is not disclosed or suggested in the prior art. *Ex Parte Kranz*, 19 U.S.P.Q.2d 1216, 1218 (B.P.A.I. 1990).

Appellant believes the Examiner has failed to establish a *prima facie* case of obviousness for the claims extant in the present case because there are claim limitations that are not taught or suggested by any of the cited references, whether considered alone or in combination. Below, Appellant discusses limitations in the independent claims 23, 26 and 29 not disclosed or suggested by the cited art. On the basis of this, Appellant believes all the claims are patentable over the cited art.

B. Overview of the claimed subject matter verses the cited prior art.

In essence, the claimed invention provides a way by which a personal digital assistant (PDA) can easily access information and capability of a portable computer in a sleep mode. The PDA wakes the portable computer with a wireless communication. In response to the wireless communication the portable computer wakes up, performs the desire action and goes back to sleep. This allows a user having both a personal computer and a PDA to have the resources of the personal computer available from the immediate access capability of the PDA.

The Examiner has cited a combination of two references as disclosing the subject matter of the claims. The first is *Drainville* and the second is *King*.

In essence, *Drainville* discloses an on-demand web server within a remote device 22. The on-demand web server is connected to the internet 12 through a dial-up phone connection 38. When connected to an internet service

provider (ISP) 14, on-demand web server 22 is assigned a dynamic IP address. See Figure 1 and column 5, lines 40 through 45 of *Drainville*. A tapping web server 30 has a static IP address. When a client 10 requests connection to on-demand server 22, this is detected by tapping web server 30. Taping web sever then contacts (taps) on-demand web-server, which in response comes on line (which *Drainville* calls waking up). See column 7, lines 38 through 42.

King, in essential part, discloses a mobile communication device (e.g., a PDA) in wireless communication, via carrier networks, with a network gateway server. The network gateway connects the mobile devices to the internet. See, for example, Figure 2A of *King*.

There are some major differences between the subject matter set out in the claims and the disclosed information in the cited art. For example, the present invention has to do with simple wireless interaction between a PDA and portable computer. The cited art, however, has to do with the use of the internet to connect a client to a web server.

Also, in the present invention, when the PDA wants to activate a portable computer, the PDA sends a wireless communication directly to the portable computer to awaken the portable computer. In *Drainville*, a client trying to reach on-demand server 22 is not even aware that on-demand server is not available. Rather a tapping web server is required to monitor requests from the client and then to, when appropriate, instruct on-demand server 22 to connect to the internet through an ISP.

Thus, the cited art is significantly different than the claimed invention and does not suggest pertinent features of the present invention. Below, Appellant discusses specific limitations in each of the independent claims 23, 26 and 29 not disclosed or suggested by the cited art.

C. Discussion of Independent claim 23

1. Subject Matter within Claim 23 not disclosed by the cited art.

<u>Communication between a portable digital assistant and a portable computer</u>

Claim 23 sets out a method by which a portable computer in a sleep mode responds to a wireless communication from a personal digital assistant.

In essence, the claimed invention provides a way by which a PDA can easily access information within a portable computer in a sleep mode. Nothing in *Drainville* or *King*, whether considered alone or in combination, discloses or suggests this subject matter. Particularly, neither *Drainville* nor *King* is concerned with communication between a personal digital assistant and a personal computer in a sleep mode.

<u>*Drainville*:</u>

The Examiner concedes that *Drainville* does not disclose or discuss a personal digital assistant.

Likewise, *Drainville* does not disclose or discuss any portable computers. The Examiner has asserted that remote device 22 shown in Figure 1 of *Drainville*

is a portable computer. However, nothing in *Drainville* discloses or suggests that this is so. In fact, *Drainville* teaches away from remote device 22 being a portable computer. Specifically, remote device 22 is an on-demand web server 22 wired to an idle phone line 38 through modem 16. See *Drainville* at column 5, lines 41 through 44. Since *Drainville* specifically teaches that remote device 22 is hardwired to an idle phone line 38 through a modem and is an on-demand web server 22 it is very clear that *Drainville* is not disclosing or suggesting remote device 22 is a portable computer.

Since *Drainville* does not disclose a personal digital assistant nor a portable computer, it is clear that *Drainville* does not disclose or suggest communications between a personal digital assistant and a portable computer in a sleep mode.

King:

King discloses connection of a personal digital assistant to the internet. *King* does not disclose or suggest communication between a personal digital assistant and a personal computer in a sleep mode.

A personal digital assistant waking a portable computer

In claim 23, the portable computer is awakened from the sleep mode in response to the wireless communication from the personal digital assistant. This is not disclosed or suggested by the cited art.

King does not disclose any entity being in sleep mode or being awakened from a sleep mode.

Drainville does not disclose a portable computer, does not disclose a personal digital assistant and does not disclose a portable computer being awakened from a sleep mode by a personal digital assistant.

The Examiner has pointed out that *Drainville* discloses that an on demand server is accessible after a wake-up connection from a server in response to a request from a client computer. See *Drainville* at column 1, lines 62 through 64.

However, what is disclosed by *Drainville* at column 1, lines 62 through 64 is vastly different than the limitation set out in claim 23. Specifically, on demand server in remote device 22 (shown in Figure 1 of *Drainville*) is not a portable computer and the tapping web server 30 is not a personal digital assistant.

Response via wireless communication

In claim 23, the portable computer responds to the personal digital assistant via another wireless communication transmission. This is not disclosed or suggested by *King* or *Drainville*.

Drainville does not disclose or suggest such a wireless response. For example, on-demand web server 22 responds to a wake up "tap" from tapping server with a "ping" which arrives through the hardwire connection to the

internet. See column 6, lines 14 through 16. *Drainville* does not disclose any response by wireless transmission.

While *King* discloses that a PDA can be connected wirelessly to the internet, *King* does not disclose any communication that wakes up a portable computer (or any other) entity and does not disclose or suggest any transmissions being made in response to a portable computer (or any other entity) being awakened from a sleep mode.

2. Combination of *King* and *Drainville*:

The suggested combination does not disclose claimed subject matter

The Examiner has argued that *King* teaches a personal digital assistant which is capable of wireless communication and could be used as a client in the system shown by *Drainville*. See the Office Action mailed July 21, 2005 , at page 6, lines 6 through 7.

However, even if as suggested by the Examiner, a client in the system shown by *Drainville* were replaced by a personal digital assistant, this would not disclose the subject matter set out in claim 23. Substituting the personal digital assistant for the client in *Drainville,* brings the disclosed subject matter of *Drainville* no closer to the subject matter set out by claim 23.

For example, claim 23 states that the portable computer is awakened from a sleep mode in response to a wireless communication from a personal digital assistant. Substituting a personal digital assistant for the client in

Drainville would not result in the disclosure or suggestion of this subject matter of claim 23.

In *Drainville*, client 10 does not communicate with the on-demand web server 22 until after web server 22 has been awakened by the tapping server. Therefore, no communications (wireless or otherwise) from client 10 is used to wake up the on-demand server.

The likely result of the combination of *Drainville* and *King*

King discloses mobile communication device in wireless communication, via carrier networks, with a network gateway server. The network gateway connects the mobile devices to the internet. See, for example, Figure 2A of *King*.

It would be possible to replace client 10, shown in Figure 1 of *Drainville* with a mobile communication device in wireless communication, via carrier networks, with a network gateway server as shown in Figure 2A of *King*. However, this would not disclose the subject matter of claim 23. As discussed above, in claim 23, a portable computer is awakened from a sleep mode in response to a wireless communication from a personal digital assistant. In *Drainville*, with or without modification based on *King*, the on-demand web server is awakened by a tap from tapping web server 30. If client 10 were transformed to include a personal digital assistant, this would not bring *Drainville* any closer to disclosing or suggesting the subject matter of claim 23 of the present case.

D. Discussion of Independent claim 26

1. Subject Matter within Claim 26 not disclosed by the cited art.

<u>Communication between a portable digital assistant and a portable computer</u>

Claim 26 sets out a method by which a portable computer in a sleep mode responds to a wireless communication from a personal digital assistant.

In essence, the claimed invention provides a way by which a PDA can easily access information within a portable computer in a sleep mode. Nothing in *Drainville* or *King*, whether considered alone or in combination, discloses or suggests this subject matter. Particularly, neither *Drainville* nor *King* is concerned with communication between a personal digital assistant and a personal computer in a sleep mode.

As discussed above, the Examiner concedes that *Drainville* does not disclose or discuss a personal digital assistant.

Likewise, *Drainville* does not disclose or discuss any portable computers. The Examiner has asserted that remote device 22 shown in Figure 1 of *Drainville* is a portable computer. However, nothing in *Drainville* discloses or suggests that this is so. In fact, *Drainville* teaches away from remote device 22 being a portable computer. Specifically, remote device 22 is an on-demand web server 22 wired to an idle phone line 38 through modem 16. See *Drainville* at column 5, lines 41 through 44. Since *Drainville* specifically teaches that remote device 22 is hardwired to an idle phone line 38 through a modem and is an on-demand web server 22 it is very clear that *Drainville* is not disclosing or suggesting remote device 22 is a portable computer.

Since *Drainville* does not disclose a personal digital assistant nor a portable computer, it is clear that *Drainville* does not disclose or suggest communications between a personal digital assistant and a portable computer in a sleep mode.

King discloses connection of a personal digital assistant to the internet. *King* does not disclose or suggest communication between a personal digital assistant and a personal computer in a sleep mode.

A personal digital assistant waking a portable computer

In claim 26, the portable computer is awakened from the sleep mode in response to the wireless communication from the personal digital assistant. This is not disclosed or suggested by the cited art.

King does not disclose any entity being in sleep mode or being awakened from a sleep mode.

Drainville does not disclose a portable computer, does not disclose a personal digital assistant and does not disclose a portable computer being awakened from a sleep mode by a personal digital assistant.

The Examiner has pointed out that *Drainville* discloses that an on demand server is accessible after a wake-up connection from a server in response to a request from a client computer. See *Drainville* at column 1, lines 62 through 64.

However, what is disclosed by *Drainville* at column 1, lines 62 through 64 is vastly different than the limitation set out in claim 23. Specifically, on demand server in remote device 22 (shown in Figure 1 of *Drainville*) is not a

portable computer and the tapping web server 30 is not a personal digital assistant.

2. Combination of *King* and *Drainville*:

<u>The suggested combination does not disclose claimed subject matter</u>

The Examiner has argued that *King* teaches a personal digital assistant which is capable of wireless communication and could be used as a client in the system shown by *Drainville*. See the Office Action mailed July 21, 2005 , at page 6, lines 6 through 7.

However, even if as suggested by the Examiner, a client in the system shown by *Drainville* were replaced by a personal digital assistant, this would not disclose the subject matter set out in claim 23. Substituting the personal digital assistant for the client in *Drainville*, brings the disclosed subject matter of *Drainville* no closer to the subject matter set out by claim 26.

For example, claim 26 states that the portable computer is awakened from a sleep mode in response to a wireless communication from a personal digital assistant. Substituting a personal digital assistant for the client in *Drainville* would not result in the disclosure or suggestion of this subject matter of claim 23.

In *Drainville*, client 10 does not communicate with the on-demand web server 22 until after web server 22 has been awakened by the tapping server. Therefore, no communications (wireless or otherwise) from client 10 is used to wake up the on-demand server. If client 10 were transformed to include a

personal digital assistant, this would not bring *Drainville* any closer to disclosing or suggesting the subject matter of claim 26 of the present case.

E. Discussion of Independent claim 29

1. Subject Matter within Claim 29 not disclosed by the cited art.

Communication between a portable digital assistant and a portable computer

Independent claim 29 sets out storage media storing software which when executing on a portable computer performs a method by which the portable computer responds to a wireless communication from a personal digital assistant. Nothing in *Drainville* or *King*, whether considered alone or in combination, discloses or suggests this subject matter. Particularly, neither *Drainville* nor *King* is concerned with communication between a personal digital assistant and a personal computer.

As discussed above, the Examiner concedes that *Drainville* does not disclose or discuss a personal digital assistant.

Likewise, *Drainville* does not disclose or discuss any portable computers. The Examiner has asserted that remote device 22 shown in Figure 1 of *Drainville* is a portable computer. However, nothing in *Drainville* discloses or suggests that this is so. In fact, *Drainville* teaches away from remote device 22 being a portable computer. Specifically, remote device 22 is an on-demand web server 22 wired to an idle phone line 38 through modem 16. See *Drainville* at column 5, lines 41 through 44. Since *Drainville* specifically teaches that remote device 22 is hardwired to an idle phone line 38 through a modem and is an on-demand web

server 22 it is very clear that *Drainville* is not disclosing or suggesting remote device 22 is a portable computer.

Since *Drainville* does not disclose a personal digital assistant nor a portable computer, it is clear that *Drainville* does not disclose or suggest communications between a personal digital assistant and a portable computer.

King discloses connection of a personal digital assistant to the internet. *King* does not disclose or suggest communication between a personal digital assistant and a personal computer in a sleep mode.

A personal digital assistant waking a portable computer

In independent claim 29, the portable computer is awakened from the sleep mode in response to the wireless communication from the personal digital assistant. This is not disclosed or suggested by the cited art.

King does not disclose any entity being in sleep mode or being awakened from a sleep mode.

Drainville does not disclose a portable computer, does not disclose a personal digital assistant and does not disclose a portable computer being awakened from a sleep mode by a personal digital assistant.

The Examiner has pointed out that *Drainville* discloses that an on demand server is accessible after a wake-up connection from a server in response to a request from a client computer. See *Drainville* at column 1, lines 62 through 64.

However, what is disclosed by *Drainville* at column 1, lines 62 through 64 is vastly different than the limitation set out in claim 23. Specifically, on

demand server in remote device 22 (shown in Figure 1 of *Drainville*) is not a portable computer and the tapping web server 30 is not a personal digital assistant.

2. Combination of *King* and *Drainville*:

<u>The suggested combination does not disclose claimed subject matter</u>

The Examiner has argued that *King* teaches a personal digital assistant which is capable of wireless communication and could be used as a client in the system shown by *Drainville*. See the Office Action mailed July 21, 2005, at page 6, lines 6 through 7.

However, even if as suggested by the Examiner, a client in the system shown by *Drainville* were replaced by a personal digital assistant, this would not disclose the subject matter set out in claim 23. Substituting the personal digital assistant for the client in *Drainville*, brings the disclosed subject matter of *Drainville* no closer to the subject matter set out by claim 29.

For example, claim 29 states that the portable computer is awakened from a sleep mode in response to a wireless communication from a personal digital assistant. Substituting a personal digital assistant for the client in *Drainville* would not result in the disclosure or suggestion of this subject matter of claim 23.

In *Drainville*, client 10 does not communicate with the on-demand web server 22 until after web server 22 has been awakened by the tapping server. Therefore, no communications (wireless or otherwise) from client 10 is used to
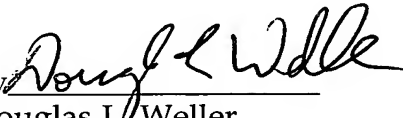
wake up the on-demand server. If client 10 were transformed to include a personal digital assistant, this would not bring *Drainville* any closer to disclosing or suggesting the subject matter of claim 26 of the present case.

CONCLUSION

For all the reasons discussed above, Appellant believes the rejection of the claims was in error and respectfully requests that the rejection be reversed.

Respectfully submitted,

JEFFREY R. OAR
GREGORY J. MAY

By Douglas L. Weller
Douglas L. Weller
Reg. No. 30,506

November 11, 2005
Santa Clara, California
(408) 985-0642

23. A method by which a portable computer in a sleep mode responds to a wireless communication from a personal digital assistant, the method comprising the following:

waking the portable computer from the sleep mode in response to the wireless communication from the personal digital assistant;

recognizing the wireless communication by the portable computer;

responding to the wireless communication by the portable computer, including the following :

generating a response, and

transmitting the response to the personal digital assistant, the transmitting being performed via another wireless communication transmission; and,

returning the portable computer to the sleep mode.

24. A method as in claim 23 wherein the transmission of the response by the portable computer is made directly to the personal digital assistant via a wireless network.

25. A method as in claim 24 wherein the wireless communication is one of the following:

an access by the personal digital assistant into a database within the portable computer;

an access by the personal digital assistant into a calendaring program within the portable computer program.

26. A method by which a portable computer in a sleep mode responds to a wireless communication from a personal digital assistant, the method comprising the following:

waking the portable computer from the sleep mode in response to the wireless communication from the personal digital assistant;

recognizing the wireless communication by the portable computer;

performing an action in response to the wireless communication by the personal digital assistant; and,

returning the portable computer to the sleep mode.

27. A method as in claim 26 wherein the wireless communication is performed via a wireless network.

28. A method as in claim 26 wherein the wireless communication is one of the following:

an access by the personal digital assistant into a database within the portable computer;

an access by the personal digital assistant into a calendaring program within the portable computer program.

29. Storage media, the storage media storing software which when executing on a portable computer performs a method by which the portable computer responds to a wireless communication from a personal digital assistant, the method comprising the following:

waking the portable computer from the sleep mode in response to the wireless communication from the personal digital assistant;

recognizing the wireless communication by the portable computer;

performing an action in response to the wireless communication by the portable computer; and,

returning the portable computer to the sleep mode.

30. Storage media as in claim 29 wherein the wireless communication is performed via a wireless network.

31. Storage media in claim 29 wherein the wireless communication is one of the following:

an access by the personal digital assistant into a database within the portable computer;

an access by the personal digital assistant into a calendaring program within the portable computer program.

EVIDENCE APPENDIX

No evidence under §§ 1.130, 1.131, or 1.132 is relied upon by Appellant in the appeal.

RELATED PROCEEDINGS APPENDIX

There are no related decisions rendered by a court or the Board.